GOVERNMENT OF MYSORE.

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT.
(LABOUR).

Labour Disputes.—Industrial Dispute between the Workmen and the Management of Udevara Estate, 'B' Block, Arehally Post, Hassan District.

Award of the Industrial Tribunal, Bangalore—published.

Read the following papers :—

1. Letter No. IT 2581-3/66-67, dated 21st February 1967, from Shri A. Panchaksharish, Presiding Officer, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

Dated 20th February 1967.

Present :

Shri A. Panchakshariah, B.A., (HONS) LL.B., Presiding Officer.

I. D. No. 70 of 1966.

Workmen of Udevara Estate, 'B' Block, Arehally Post Hassan District. *First Party.*

Vs.

Management, Udevara Estate 'B' Block, Arehally Post Hassan District. *Second Party.*

Appearances.

For *I Party*.—Sri M. V. Bhaskar, Vice-President, Karnataka Provincial Plantation Workers' Union, Chickmagalur.

For II *Party*.—Nobody appeared.

Reference

G. O. No. LMA 78 LLD 66, Bangalore, dated 21st/30th March 1966.

AWARD.

Under Section 10 (1) (d) of the Industrial Disputes Act, 1947, the Government of Mysore, by their Order No. LMA 78 LLD 66, dated 30th March 1966, have referred the points of dispute existing between the workmen and management of Udevara Estate B' Block, Arehally Post, Hassan District to this tribunal for adjudication. The dispute is in relation to bonus claimed by the workmen for the year 1962 63 at 50 per cent of the net profit subject to a minimum of one month's wages, irrespective of the profits or loss.

2. As soon as the Reference was received, the same was registered as I. D. No. 70 of 1966 and notices were issued to the I Party to file the claim statement. The I Party is represented by the Vice-President, Karnataka Provincial Plantation Workers' Union, Chickmagalur. On 6th May 1966 the I Party filed a claim statement. It is contended by the I Party that the II Party Management is a Coffee Estate and during the season 1962-63 this Management had made good profit and was in a position to pay bonus to its employees. Therefore, it is requested that the II Party Management may be directed to pay bonus by distributing 50 per cent of the net profit for the year 1962-63, subject to a minimum of one month's wages irrespective of the profit or loss.

3. As against this, the II party Management of Udevara Estate 'B' Block, filed a counter statement on 17th May 1966. The II party contends that there are no blocks in the Udevara Estate known as 'A', 'B' and 'C', but the entire Estate was a joint family concern owned by the three persons during the year for which bonus is claimed and even on the date of reference continues to be a joint concern. The entire Estate is one industry and no such separate industry as Block 'B' Udevara Estate has come into existence till the date on which the counter statement was filed. On this ground it is urged that the Reference is liable to be rejected, as the tribunal has no jurisdiction for want of existence of any industrial dispute. It is also contended that on another ground also this Reference is bad, and that is, on 1st May 1965, the Government of Mysore, had by its Order No. PLM 169 LLD 64, had referred to the Labour Court, Bangalore, an industrial dispute, wherein one of the points of dispute is whether the Udevara Estate, Arehally Post, Hassan District, is divided amongst its joint owners? And if so, who is the owner of the Udevara Estate 'B' Block? The Estate having been held and

managed by Sri Khadervali on behalf of the joint owners for the relevant y ar for which bonus is claimed, the Reference is bad and is liable to be rejected. According to the case put forward by the II Party, this Ud-vara Estate belongs to three persons (1) Khadervali, (2) Khal el-ur-Rahman and (3) Ghouse Mohiyuddin, their shares being $\frac{1}{2}$, $\frac{1}{4}$ and $\frac{1}{4}$ respectively. The Estate is not divided by metes and bound at any time. From the time of the purchase of the Estate in 1958, this Sri Khadervali has been in sole management and possession of the entire undivided Estate holding powers of attorney from the other two persons. So far as the II Party in this case is concerned, it pleads ignorance of the real state of affairs. However, in the middle of August 1964 disputes arose between this Sri Khadervali and the other two persons, as a consequence of which the Power of Attorney given to this Khadervali has been cancelled in August 1963 Since this Khadervali had drawn huge sums of money from the banks, a suit was filed against him in the Hassan Munsiff's Court by the other two persons. It is alleged that this Khadervali has set up these workmen to fight the case against the II Party. Since this party has not taken any part in the Management, he does not know the wages and bonus paid by Khadervali for 1962-63, nor is he aware of any net income of the Estate and whether it would warrant the demands made by the I Party and if so to what extent? And whether any settlement has been effected, the II Party is not at all aware. It is finally contended that the tribunal may be pleased to get all the necessary information from Khadervali and pass such orders as this tribunal think fit. It is therefore clear from this counter statement that the claim put forward by the workmen for bonus at the rate of 50 per cent of the net profit, has not at all been denied, much less the claim for minimum bonus of one month's wages denied by the II Party.

4. On the strength of these pleadings, issues were framed by me in addition to the points of dispute in the Reference sent down for adjudication. The case was posted for recording of evidence at my Hassan camp. On 16th January 1967 the case was taken up and on that day nobody was present. However, in order to give both parties a chance, the case was adjourned to 17th January 1967. On 17th January 1967 again both the parties were absent. Since the II Party had alleged that this Reference is bad in law for the grounds mentioned in paras 1, 2, 3 and 4 of the counter statement and since the same was not substantiated by the II Party, issue No. 1 was held against the II Party on 17th January 1967 and the case was posted for trial on other issues to Chickmagalur Camp.

On 14th February 1967 at my Chickmagalur camp, when the case was called, nobody was present, neither the I party nor the II Party. The burden of establishing that the I Party workmen are entitled to bonus at the rate of 50 per cent of the net profits for the year 1962 63, remains undischarged. However, in law the I Party workmen are entitled to the minimum bonus of Rs. 40 or 4 per cent of their total earnings during the said year, irrespective of the profit earned or loss incurred by the II party. As the I Party has failed to prove the net profit which the II party is alleged to have made during 1962-63, as also the total earnings of each of the workers, the I party would be entitled only to the minimum bonus of Rs. 40. Accordingly I make an award holding that the I party workmen are each entitled to the minimum bonus of Rs. 40 for the year 1962-63.

5. In the circumstances of the case, each party will bear its own costs.

A. PANCHAKSHARIAH,

Presiding Officer,
Industrial Tribunal.

ORDER.

Bangalore, dated 28th February 1967.

S. O. 709.—WHEREAS by State Government Order No. PLM 78 LLD 66, dated 30th March 1966, the Industrial Dispute between the Workmen and the Management of Udevara Estate 'B' Blocks Arehalli, Post was referred to the Industrial Tribunal, Bangalore for adjudication;

AND WHEREAS the Industrial Tribunal, Bangalore has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 78 LLD 66.]

By Order and in the name of the Governor of Mysore,

3111 G. G. PUROHIT, *Under Secy.*